

104TH CONGRESS
1ST SESSION

H. R. 2124

To enhance the competitiveness of the United States in the global economy through the establishment of the United States Trade Administration as an independent establishment in the executive branch of the Government.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 1995

Mr. MICA (for himself, Mr. CHRYSLER, Mr. ROGERS, Mr. GILMAN, Mr. CLINGER, Mr. ROTH, Mr. MANZULLO, and Mr. PORTMAN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on International Relations, Banking and Financial Services, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To enhance the competitiveness of the United States in the global economy through the establishment of the United States Trade Administration as an independent establishment in the executive branch of the Government.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Trade Reorganization
5 Act of 1995”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

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- Sec. 102. Definitions.

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- Sec. 403. Personnel and funding reductions resulting from reorganization.
- Sec. 404. Authorization of appropriations.

1 **TITLE I—GENERAL PROVISIONS**

2 **SEC. 101. FINDINGS.**

3 The Congress finds that—

4 (1) principal national goals of the United States
5 are to—

6 (A) maintain United States leadership in
7 international trade liberalization and expansion
8 efforts;

9 (B) reinvigorate the ability of the United
10 States economy to compete in international
11 markets and to respond flexibly to changes in
12 international competition; and

13 (C) expand United States participation in
14 international trade through aggressive pro-

1 motion and marketing of American products
2 and services;

3 (2) the economy of the United States is so inex-
4 tricably linked with the international economic sys-
5 tem that all domestic economic sectors are influ-
6 enced by the dynamics of global trade and invest-
7 ment;

8 (3) the expansion of United States participation
9 in international trade will improve the general wel-
10 fare of the people of the United States by increasing
11 demand for American products and services, creat-
12 ing jobs, and increasing the gross national product;

13 (4) business, labor, and all levels of government
14 must place the highest priority on developing meth-
15 ods and policies to achieve the goals described in
16 paragraph (1), and the achievement of such goals is
17 dependent on a marked improvement in the capabil-
18 ity of United States businesses to compete in foreign
19 markets;

20 (5) the Federal Government can enhance the
21 capability of United States businesses to compete in
22 foreign markets by acting to—

23 (A) reduce trade barriers to sales and in-
24 vestments by such businesses;

1 (B) promote American goods and services
2 in foreign countries and encourage aggressive
3 participation by the private sector in the inter-
4 national marketplace; and

5 (C) promote and maintain an international
6 trade system that establishes open, transparent,
7 and fair trade rules and leads to the expansion
8 of United States trade;

9 (6) effective and efficient Government action to
10 enhance the capability of United States businesses
11 to compete in foreign markets requires coordination
12 of the development and implementation of Govern-
13 ment policies relating to the international trade in-
14 terests of the United States;

15 (7) effective and efficient Government action
16 with respect to international trade further requires
17 the employment of personnel consisting of individ-
18 uals who, like the personnel of the governments of
19 United States trading partners, are highly experi-
20 enced and educated in international trade operations
21 and negotiations;

22 (8) the present organizational structure of Gov-
23 ernment administration of international trade activi-
24 ties is too diffuse and leads to inconsistent and con-
25 flicting policies and actions;

1 (9) such inconsistent and contradictory policies
2 and actions inhibit domestic trade interests, create
3 trade opportunities for our international competi-
4 tors, and discourage experienced Government per-
5 sonnel from career service in international trade ac-
6 tivities;

7 (10) United States performance in international
8 trade is fundamentally linked to the competitiveness
9 of American industry in the world economy;

10 (11) improvements in the competitiveness of
11 United States industry, products, and services can
12 be aided by reducing traditional antagonisms among
13 government, industry, labor, and the public;

14 (12) a lack of analytical capability and knowl-
15 edge concerning the competitive position of Amer-
16 ican industries and foreign industries greatly ham-
17 pers or delays the ability of the United States to for-
18 mulate responsible trade policies and policies that
19 affect the international competitiveness of domestic
20 industries;

21 (13) the consolidation of Government functions
22 relating to international trade, including functions
23 relating to technical analysis, policymaking, inter-
24 national negotiation, and operational responsibilities,
25 into the United States Trade Administration shall

1 provide the needed elevation and coordination of
2 Government activity in international trade;

3 (14) the continued prosperity and overall com-
4 petitive posture of the United States calls for a deci-
5 sive and unified trade policy that vigorously pro-
6 motes an equitable international trade environment
7 in which the United States is able to compete fully
8 and fairly;

9 (15) continued United States leadership in the
10 world economy requires the formulation and imple-
11 mentation of a trade policy that is delineated and
12 understood by the rest of the world;

13 (16) establishing a decisive and unified trade
14 policy has become a number one priority of the Unit-
15 ed States;

16 (17) enhancing the process of consultation and
17 advice between the executive branch, the Congress,
18 and the private sector will assist in developing the
19 consensus on and support for the trade policy of the
20 United States;

21 (18) there is no one single agency or depart-
22 ment within the executive branch with overall re-
23 sponsibility for the development, coordination, imple-
24 mentation, and administration of the United States
25 trade policy, and the proliferation and division of

1 agencies within the executive branch have weakened
2 the overall leadership of the United States in inter-
3 national trade matters; and

4 (19) the economic well-being of the American
5 people will be substantially enhanced through the es-
6 tablishment of the United States Trade Administra-
7 tion.

8 **SEC. 102. DEFINITIONS.**

9 For purposes of this Act, unless otherwise provided
10 or indicated by the context—

11 (1) the term “Administration” means the Unit-
12 ed States Trade Administration;

13 (2) the term “Federal agency” has the meaning
14 given to the term “agency” by section 551(1) of title
15 5, United States Code;

16 (3) the term “function” means any duty, obli-
17 gation, power, authority, responsibility, right, privi-
18 lege, activity, or program;

19 (4) the term “office” includes any office, ad-
20 ministration, agency, institute, unit, organizational
21 entity, or component thereof; and

22 (5) the term “USTR” means the United States
23 Trade Representative as provided for under section
24 201.

1 **TITLE II—UNITED STATES**
2 **TRADE ADMINISTRATION**
3 **Subtitle A—Establishment**

4 **SEC. 201. ESTABLISHMENT OF THE ADMINISTRATION.**

5 (a) IN GENERAL.—There is established the United
6 States Trade Administration which shall be an independ-
7 ent establishment in the executive branch of Government
8 as defined under section 104 of title 5, United States
9 Code. The United States Trade Representative shall be
10 the Administrator of the United States Trade Administra-
11 tion and shall be appointed by the President, by and with
12 the advice and consent of the Senate.

13 (b) AMBASSADOR STATUS.—The USTR shall have
14 the rank and status of Ambassador and shall represent
15 the United States in all trade negotiations conducted by
16 the Administration.

17 **SEC. 202. FUNCTIONS OF THE USTR.**

18 (a) IN GENERAL.—In addition to the functions trans-
19 ferred to the USTR by this Act, such other functions as
20 the President may assign or delegate to the USTR, and
21 such other functions as the USTR may, after the effective
22 date of this Act, be required to carry out by law, the
23 USTR shall—

24 (1) serve as the principal advisor to the Presi-
25 dent on international trade policy and advise the

1 President on the impact of other policies of the
2 United States Government on international trade;

3 (2) exercise primary responsibility, with the ad-
4 vice of the interagency organization established
5 under section 242 of the Trade Expansion Act of
6 1962, for developing and implementing international
7 trade policy, including commodity matters and, to
8 the extent related to international trade policy, di-
9 rect investment matters and, in exercising such re-
10 sponsibility, advance and implement the goals de-
11 scribed in section 101(1) as the primary mandate of
12 the Administration;

13 (3) exercise lead responsibility for the conduct
14 of international trade negotiations, including nego-
15 tiations relating to commodity matters and, to the
16 extent that such negotiations are related to inter-
17 national trade, direct investment negotiations;

18 (4) exercise lead responsibility for the establish-
19 ment of a national export strategy, including policies
20 designed to implement such strategy;

21 (5) with the advice of the interagency organiza-
22 tion established under section 242 of the Trade Ex-
23 pansion Act of 1962, issue policy guidance to other
24 Federal agencies on international trade, commodity,
25 and direct investment functions to the extent nec-

1 essary to assure the coordination of international
2 trade policy;

3 (6) seek and promote new opportunities for
4 United States products and services to compete in
5 the world marketplace;

6 (7) assist small businesses in developing export
7 markets;

8 (8) enforce the laws of the United States relat-
9 ing to trade;

10 (9) analyze economic trends and developments;

11 (10) report directly to the Congress—

12 (A) on the administration of, and matters
13 pertaining to, the trade agreements program
14 under the Omnibus Trade and Competitiveness
15 Act of 1988, the Trade Act of 1974, the Trade
16 Expansion Act of 1962, section 350 of the Tar-
17 iff Act of 1930, and any other provision of law
18 enacted after this Act; and

19 (B) with respect to other important issues
20 pertaining to international trade;

21 (11) keep each official adviser to the United
22 States delegations to international conferences,
23 meetings, and negotiation sessions relating to trade
24 agreements who is appointed from the Committee on
25 Finance of the Senate or the Committee on Ways

1 and Means of the House of Representatives under
2 section 161 of the Trade Act of 1974 currently in-
3 formed on United States negotiating objectives with
4 respect to trade agreements, the status of negotia-
5 tions in progress with respect to such agreements,
6 and the nature of any changes in domestic law or
7 the administration thereof which the USTR may
8 recommend to the Congress to carry out any trade
9 agreement;

10 (12) consult and cooperate with State and local
11 governments and other interested parties on inter-
12 national trade matters of interest to such govern-
13 ments and parties, and to the extent related to inter-
14 national trade matters, on investment matters, and,
15 when appropriate, hold informal public hearings;

16 (13) serve as the principal advisor to the Presi-
17 dent on government policies designed to contribute
18 to enhancing the ability of United States industry
19 and services to compete in international markets;

20 (14) develop recommendations for national
21 strategies and specific policies intended to enhance
22 the productivity and international competitiveness of
23 United States industries;

24 (15) serve as the principal advisor to the Presi-
25 dent in identifying and assessing the consequences

1 of any Government policies that adversely affect, or
2 have the potential to adversely affect, the inter-
3 national competitiveness of United States industries
4 and services; and

5 (16) promote cooperation between business,
6 labor, and Government to improve industrial per-
7 formance and the ability of United States industries
8 to compete in international markets and to facilitate
9 consultation and communication between the Gov-
10 ernment and the private sector about domestic in-
11 dustrial performance and prospects and the perform-
12 ance and prospects of foreign competitors.

13 (b) INTERAGENCY ORGANIZATION.—The USTR shall
14 be the chairperson of the interagency organization estab-
15 lished under section 242 of the Trade Expansion Act of
16 1962.

17 (c) NATIONAL SECURITY COUNCIL.—The USTR
18 shall be a member of the National Security Council.

19 (d) ADVISORY COUNCIL.—The USTR shall be Dep-
20 uty Chairman of the National Advisory Council on Inter-
21 national Monetary and Financial Policies established
22 under Executive Order 11269, issued February 14, 1966.

23 (e) AGRICULTURE.—(1) The USTR shall consult
24 with the Secretary of Agriculture or the designee of the

1 Secretary of Agriculture on all matters that potentially in-
2 volve international trade in agricultural products.

3 (2) If an international meeting for negotiation or con-
4 sultation includes discussion of international trade in agri-
5 cultural products, the USTR or the designee of the USTR
6 shall be Chairman of the United States delegation to such
7 meeting and the Secretary of Agriculture or the designee
8 of such Secretary shall be Vice Chairman. The provisions
9 of this paragraph shall not limit the authority of the
10 USTR under subsection (h) to assign to the Secretary of
11 Agriculture responsibility for the conduct of, or participa-
12 tion in, any trade negotiation or meeting.

13 (f) TRADE PROMOTION.—The USTR shall be the
14 chairperson of the Trade Promotion Coordinating Com-
15 mittee.

16 (g) NATIONAL ECONOMIC COUNCIL.—The USTR
17 shall be a member of the National Economic Council es-
18 tablished under Executive Order No. 12835, issued Janu-
19 ary 25, 1993.

20 (h) INTERNATIONAL TRADE NEGOTIATIONS.—Ex-
21 cept where expressly prohibited by law, the USTR, at the
22 request or with the concurrence of the head of any other
23 Federal agency, may assign the responsibility for conduct-
24 ing or participating in any specific international trade ne-
25 gotiation or meeting to the head of such agency whenever

1 the USTR determines that the subject matter of such
2 international trade negotiation is related to the functions
3 carried out by such agency.

4 **Subtitle B—Officers**

5 **SEC. 211. DEPUTY ADMINISTRATOR OF THE UNITED** 6 **STATES TRADE ADMINISTRATION.**

7 (a) ESTABLISHMENT.—There shall be in the Admin-
8 istration the Deputy Administrator of the United States
9 Trade Administration, who shall be appointed by the
10 President, by and with the advice and consent of the Sen-
11 ate.

12 (b) ABSENCE, DISABILITY, OR VACANCY OF
13 USTR.—The Deputy Administrator of the United States
14 Trade Administration shall act for and exercise the func-
15 tions of the USTR during the absence or disability of the
16 USTR or in the event the office of the USTR becomes
17 vacant. The Deputy Administrator of the United States
18 Trade Administration shall act for and exercise the func-
19 tions of the USTR until the absence or disability of the
20 USTR no longer exists or a successor to the USTR has
21 been appointed by the President and confirmed by the
22 Senate.

23 (c) FUNCTIONS OF DEPUTY ADMINISTRATOR OF THE
24 UNITED STATES TRADE ADMINISTRATION.—The Deputy
25 Administrator of the United States Trade Administration

1 shall exercise all functions, under the direction of the
2 USTR, transferred to or established in the Administra-
3 tion, except those functions exercised by the Deputy Unit-
4 ed States Trade Representatives, the Inspector General,
5 and the General Counsel of the Administration, as pro-
6 vided by this Act.

7 **SEC. 212. DEPUTY UNITED STATES TRADE REPRESENTA-**
8 **TIVES.**

9 (a) ESTABLISHMENT.—There shall be in the Admin-
10 istration 2 Deputy United States Trade Representatives,
11 who shall be appointed by the President, by and with the
12 advice and consent of the Senate. The Deputy United
13 States Trade Representatives shall exercise all functions
14 under the direction of the USTR, and shall include—

15 (1) the Deputy United States Trade Represent-
16 ative for Negotiations; and

17 (2) the Deputy United States Trade Represent-
18 ative to the World Trade Organization.

19 (b) FUNCTIONS OF DEPUTY UNITED STATES TRADE
20 REPRESENTATIVES.—(1) The Deputy United States
21 Trade Representative for Negotiations shall exercise all
22 functions transferred under section 221 and shall have the
23 rank and status of Ambassador.

24 (2) The Deputy United States Trade Representative
25 to the World Trade Organization shall exercise all func-

1 tions relating to representation to the World Trade Orga-
2 nization and shall have the rank and status of Amba-
3 sador.

4 **SEC. 213. ASSISTANT ADMINISTRATORS.**

5 (a) ESTABLISHMENT.—There shall be in the Admin-
6 istration 3 Assistant Administrators, who shall be ap-
7 pointed by the President, by and with the advice and con-
8 sent of the Senate. The Assistant Administrators shall ex-
9 ercise all functions under the direction of the Deputy Ad-
10 ministrator of the United States Trade Administration
11 and include—

12 (1) the Assistant Administrator for Export Ad-
13 ministration;

14 (2) the Assistant Administrator for Import Ad-
15 ministration; and

16 (3) the Assistant Administrator for Trade and
17 Policy Analysis.

18 (b) FUNCTIONS OF ASSISTANT ADMINISTRATORS.—

19 (1) The Assistant Administrator for Export Administra-
20 tion shall exercise all functions transferred under section
21 222(1)(C).

22 (2) The Assistant Administrator for Import Adminis-
23 tration shall exercise all functions transferred under sec-
24 tion 222(1)(D).

1 (3) The Assistant Administrator for Trade and Policy
2 Analysis shall exercise all functions transferred under sec-
3 tion 222(1)(B) and all functions transferred under section
4 222(2).

5 **SEC. 214. DIRECTOR GENERAL FOR EXPORT PROMOTION.**

6 (a) ESTABLISHMENT.—There shall be a Director
7 General for Export Promotion, who shall be appointed by
8 the President, by and with the advice and consent of the
9 Senate.

10 (b) FUNCTIONS.—The Director General for Export
11 Promotion shall exercise, under the direction of the
12 USTR, all functions transferred under sections 222(1)(A)
13 (relating to functions of the United States and Foreign
14 Commercial Service performed in foreign nations) and 223
15 and shall have the rank and status of Ambassador.

16 **SEC. 215. GENERAL COUNSEL.**

17 There shall be in the Administration a General Coun-
18 sel, who shall be appointed by the President, by and with
19 the advice and consent of the Senate. The General Counsel
20 shall provide legal assistance to the USTR concerning the
21 activities, programs, and policies of the Administration.

22 **SEC. 216. INSPECTOR GENERAL.**

23 There shall be in the Administration an Inspector
24 General who shall be appointed in accordance with the In-

1 spector General Act of 1978, as amended by section
2 261(b) of this Act.

3 **SEC. 217. CHIEF FINANCIAL OFFICER.**

4 There shall be in the Administration a Chief Finan-
5 cial Officer who shall be appointed in accordance with sec-
6 tion 901 of title 31, United States Code, as amended by
7 section 261(e) of this Act. The Chief Financial Officer
8 shall perform all functions prescribed by the Deputy Ad-
9 ministrator of the United States Trade Administration,
10 under the direction of the Deputy Administrator.

11 **Subtitle C—Transfers to the**
12 **Administration**

13 **SEC. 221. OFFICE OF THE UNITED STATES TRADE REP-**
14 **RESENTATIVE.**

15 There are transferred to the USTR of the United
16 States Trade Administration all functions of the United
17 States Trade Representative and the Office of the United
18 States Trade Representative in the Executive Office of the
19 President and all functions of any officer or employee of
20 such Office.

21 **SEC. 222. TRANSFERS FROM THE DEPARTMENT OF COM-**
22 **MERCE.**

23 There are transferred to the USTR the following
24 functions:

1 (1) All functions of, and all functions performed
2 under the direction of, the following officers and em-
3 ployees of the Department of Commerce:

4 (A) The Under Secretary of Commerce for
5 International Trade, and the Director General
6 of the United States and Foreign Commercial
7 Service, relating to all functions exercised by
8 the Service in foreign nations.

9 (B) The Assistant Secretary of Commerce
10 for International Economic Policy and the As-
11 sistant Secretary of Commerce for Trade Devel-
12 opment.

13 (C) The Under Secretary of Commerce for
14 Export Administration.

15 (D) The Assistant Secretary of Commerce
16 for Import Administration.

17 (2) All functions of the Secretary of Commerce
18 relating to the National Trade Data Bank.

19 **SEC. 223. TRADE AND DEVELOPMENT AGENCY.**

20 There are transferred to the USTR all functions of
21 the Director of the Trade and Development Agency. There
22 are transferred to the Administration all functions of the
23 Trade and Development Agency.

Subtitle D—Administrative Provisions

SEC. 231. PERSONNEL PROVISIONS.

(a) APPOINTMENTS.—The USTR may appoint and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as may be necessary to carry out the functions of the USTR and the Administration. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b) POSITIONS ABOVE GS-15.—(1) At the request of the USTR, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in a grade level above GS-15 of the General Service, and in the Senior Executive Service, of a number of positions in the Administration equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred by this Act and which were assigned and filled on the day before the effective date of this Act.

(2) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, if the indi-

1 vidual appointed in such position is an individual who is
2 transferred in connection with the transfer of functions
3 and offices under this Act and, on the day before the effective date of this Act, holds a position and has duties comparable to those of the position to which appointed under
4 this subsection.
5
6

7 (3) The authority under this subsection with respect
8 to any position established at a grade level above GS-15
9 shall terminate when the person first appointed to fill such
10 position ceases to hold such position.

11 (4) For purposes of section 414(a)(3)(A) of the Civil
12 Service Reform Act of 1978, an individual appointed
13 under this subsection shall be deemed to occupy the same
14 position as the individual occupied on the day before the
15 effective date of this Act.

16 (c) EXPERTS AND CONSULTANTS.—The USTR may
17 obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and
18 compensate such experts and consultants for each day (including traveltime) at rates not in excess of the maximum
19 rate of pay for a position at a grade level above GS-15
20 of the General Schedule under section 5332 of such title.
21 The USTR may pay experts and consultants who are serving away from their homes or regular place of business
22 travel expenses and per diem in lieu of subsistence at rates
23
24
25

1 authorized by sections 5702 and 5703 of such title for
2 persons in Government service employed intermittently.

3 (d) VOLUNTARY SERVICES.—(1)(A) The USTR is
4 authorized to accept voluntary and uncompensated serv-
5 ices without regard to the provisions of section 1342 of
6 title 31, United States Code, if such services will not be
7 used to displace Federal employees employed on a full-
8 time, part-time, or seasonal basis.

9 (B) The USTR is authorized to accept volunteer serv-
10 ice in accordance with the provisions of section 3111 of
11 title 5, United States Code.

12 (2) The USTR is authorized to provide for incidental
13 expenses, including but not limited to transportation, lodg-
14 ing, and subsistence for individuals who provide voluntary
15 services under subparagraph (A) or (B) of paragraph (1).

16 (3) An individual who provides voluntary services
17 under paragraph (1)(A) shall not be considered a Federal
18 employee for any purpose other than for purposes of chap-
19 ter 81 of title 5, United States Code, relating to com-
20 pensation for work injuries, and chapter 171 of title 28,
21 United States Code, relating to tort claims.

22 (e) FOREIGN SERVICE POSITIONS.—In order to as-
23 sure United States representation in trade matters at a
24 level commensurate with the level of representation main-
25 tained by industrial nations which are major trade com-

1 petitors of the United States, the Secretary of State shall
2 classify certain positions at Foreign Service posts as com-
3 mercial minister positions and shall assign members of the
4 Foreign Service performing functions of the Administra-
5 tion, with the concurrence of the USTR, to such positions
6 in nations which are major trade competitors of the Unit-
7 ed States. The Secretary of State shall obtain and use the
8 recommendations of the USTR with respect to the number
9 of positions to be so classified under this subsection.

10 **SEC. 232. DELEGATION AND ASSIGNMENT.**

11 Except where otherwise expressly prohibited by law
12 or otherwise provided by this Act, the USTR may delegate
13 any of the functions transferred to the USTR by this Act
14 and any function transferred or granted to the USTR
15 after the effective date of this Act to such officers and
16 employees of the Administration as the USTR may des-
17 ignate, and may authorize successive redelegations of such
18 functions as may be necessary or appropriate. No delega-
19 tion of functions by the USTR under this section or under
20 any other provision of this Act shall relieve the USTR of
21 responsibility for the administration of such functions.

22 **SEC. 233. SUCCESSION.**

23 (a) ORDER OF SUCCESSION.—Subject to the author-
24 ity of the President, and except as provided in section
25 211(b), the USTR shall prescribe the order by which offi-

1 cers of the Administration who are appointed by the Presi-
2 dent, by and with the advice and consent of the Senate,
3 shall act for, and perform the functions of, the USTR or
4 any other officer of the Administration appointed by the
5 President, by and with the advice and consent of the Sen-
6 ate, during the absence or disability of the USTR or such
7 other officer, or in the event of a vacancy in the office
8 of the USTR or such other officer.

9 (b) CONTINUATION.—Notwithstanding any other pro-
10 vision of law, and unless the President directs otherwise,
11 an individual acting for the USTR or another officer of
12 the Administration pursuant to subsection (a) shall con-
13 tinue to serve in that capacity until the absence or disabil-
14 ity of the USTR or such other officer no longer exists or
15 a successor to the USTR or such other officer has been
16 appointed by the President and confirmed by the Senate.

17 **SEC. 234. REORGANIZATION.**

18 (a) IN GENERAL.—Subject to subsection (b), the
19 USTR is authorized to allocate or reallocate functions
20 among the officers of the Administration, and to establish,
21 consolidate, alter, or discontinue such organizational enti-
22 ties in the Administration as may be necessary or appro-
23 priate.

24 (b) EXCEPTION.—The USTR may not exercise the
25 authority under subsection (a) to establish, consolidate,

1 alter, or discontinue any organizational entity in the Ad-
2 ministration or allocate or reallocate any function of an
3 officer or employee of the Administration that is inconsis-
4 ent with any specific provision of this Act.

5 **SEC. 235. RULES.**

6 The USTR is authorized to prescribe, in accordance
7 with the provisions of chapters 5 and 6 of title 5, United
8 States Code, such rules and regulations as the USTR de-
9 termines necessary or appropriate to administer and man-
10 age the functions of the USTR or the Administration.

11 **SEC. 236. FUNDS TRANSFER.**

12 The USTR may, when authorized in an appropriation
13 Act in any fiscal year, transfer funds from one appropria-
14 tion to another within the Administration, except that no
15 appropriation for any fiscal year shall be either increased
16 or decreased by more than 10 percent and no such trans-
17 fer shall result in increasing any such appropriation above
18 the amount authorized to be appropriated therefor.

19 **SEC. 237. CONTRACTS, GRANTS, AND COOPERATIVE AGREE-**
20 **MENTS.**

21 (a) IN GENERAL.—Subject to the provisions of the
22 Federal Property and Administrative Services Act of
23 1949, the USTR may make, enter into, and perform such
24 contracts, leases, cooperative agreements, grants, or other
25 similar transactions with public agencies, private organiza-

1 tions, and persons, and make payments (in lump sum or
2 installments, and by way of advance or reimbursement,
3 and, in the case of any grant, with necessary adjustments
4 on account of overpayments and underpayments) as the
5 USTR considers necessary or appropriate to carry out the
6 functions of the USTR or the Administration.

7 (b) EXCEPTION.—Notwithstanding any other provi-
8 sion of this Act, the authority to enter into contracts or
9 to make payments under this title shall be effective only
10 to such extent or in such amounts as are provided in ad-
11 vance in appropriation Acts. This subsection does not
12 apply with respect to the authority granted under section
13 239.

14 **SEC. 238. USE OF FACILITIES.**

15 (a) USE BY USTR.—With their consent, the USTR,
16 with or without reimbursement, may use the research,
17 services, equipment, and facilities of—

18 (1) an individual,

19 (2) any public or private nonprofit agency or
20 organization, including any agency or instrumental-
21 ity of the United States or of any State, the District
22 of Columbia, the Commonwealth of Puerto Rico, or
23 any territory or possession of the United States,

24 (3) any political subdivision of any State, the
25 District of Columbia, the Commonwealth of Puerto

1 Rico, or any territory or possession of the United
2 States, or

3 (4) any foreign government,
4 in carrying out any function of the USTR or the Adminis-
5 tration.

6 (b) USE OF USTR FACILITIES.—The USTR, under
7 terms, at rates, and for periods that the USTR considers
8 to be in the public interest, may permit the use by public
9 and private agencies, corporations, associations or other
10 organizations, or individuals, of any real property, or any
11 facility, structure or other improvement thereon, under the
12 custody of the USTR. The USTR may require permittees
13 under this section to maintain or recondition, at their own
14 expense, the real property, facilities, structures, and im-
15 provements used by such permittees.

16 **SEC. 239. GIFTS AND BEQUESTS.**

17 (a) IN GENERAL.—The USTR is authorized to ac-
18 cept, hold, administer, and utilize gifts and bequests of
19 property, both real and personal, for the purpose of aiding
20 or facilitating the work of the Administration. Gifts and
21 bequests of money and the proceeds from sales of other
22 property received as gifts or bequests shall be deposited
23 in the United States Treasury in a separate fund and shall
24 be disbursed on order of the USTR. Property accepted
25 pursuant to this subsection, and the proceeds thereof,

1 shall be used as nearly as possible in accordance with the
2 terms of the gift or bequest.

3 (b) TAX TREATMENT.—For the purpose of Federal
4 income, estate, and gift taxes, and State taxes, property
5 accepted under subsection (a) shall be considered a gift
6 or bequest to or for the use of the United States.

7 (c) INVESTMENT.—Upon the request of the USTR,
8 the Secretary of the Treasury may invest and reinvest in
9 securities of the United States or in securities guaranteed
10 as to principal and interest by the United States any mon-
11 eys contained in the fund provided for in subsection (a).
12 Income accruing from such securities, and from any other
13 property held by the USTR pursuant to subsection (a),
14 shall be deposited to the credit of the fund, and shall be
15 disbursed upon order of the USTR.

16 **SEC. 240. WORKING CAPITAL FUND.**

17 (a) ESTABLISHMENT.—The USTR is authorized to
18 establish for the Administration a working capital fund,
19 to be available without fiscal year limitation, for expenses
20 necessary for the maintenance and operation of such com-
21 mon administrative services as the USTR shall find to be
22 desirable in the interest of economy and efficiency, includ-
23 ing—

24 (1) a central supply service for stationery and
25 other supplies and equipment for which adequate

1 stocks may be maintained to meet in whole or in
2 part the requirements of the Administration and its
3 components;

4 (2) central messenger, mail, and telephone serv-
5 ice and other communications services;

6 (3) office space and central services for docu-
7 ment reproduction and for graphics and visual aids;

8 (4) a central library service; and

9 (5) such other services as may be approved by
10 the Director of the Office of Management and Budg-
11 et.

12 (b) OPERATION OF FUND.—The capital of the fund
13 shall consist of any appropriations made for the purpose
14 of providing working capital and the fair and reasonable
15 value of such stocks of supplies, equipment, and other as-
16 sets and inventories on order as the USTR may transfer
17 to the fund, less the related liabilities and unpaid obliga-
18 tions. The fund shall be reimbursed in advance from avail-
19 able funds of agencies and offices in the Administration,
20 or from other sources, for supplies and services at rates
21 which will approximate the expense of operation, including
22 the accrual of annual leave and the depreciation of equip-
23 ment. The fund shall also be credited with receipts from
24 sale or exchange of property and receipts in payment for
25 loss or damage to property owned by the fund. There shall

1 be covered into the United States Treasury as miscellane-
2 ous receipts any surplus of the fund (all assets, liabilities,
3 and prior losses considered) above the amounts trans-
4 ferred or appropriated to establish and maintain the fund.
5 There shall be transferred to the fund the stocks of sup-
6 plies, equipment, other assets, liabilities, and unpaid obli-
7 gations relating to those services which the USTR deter-
8 mines will be performed.

9 **SEC. 241. SERVICE CHARGES.**

10 (a) **AUTHORITY.**—Notwithstanding any other provi-
11 sion of law, the USTR may establish reasonable fees and
12 commissions with respect to applications, documents,
13 awards, loans, grants, research data, services, and assist-
14 ance administered by the Administration, and the USTR
15 may change and abolish such fees and commissions. Be-
16 fore establishing, changing, or abolishing any schedule of
17 fees or commissions under this section, the USTR may
18 submit such schedule to the Congress.

19 (b) **DEPOSITS.**—The USTR is authorized to require
20 a deposit before the USTR provides any item, information,
21 service, or assistance for which a fee or commission is re-
22 quired under this section.

23 (c) **DEPOSIT OF MONEYS.**—Moneys received under
24 this section shall be deposited in the Treasury in a special

1 account for use by the USTR and are authorized to be
2 appropriated and made available until expended.

3 (d) FACTORS IN ESTABLISHING FEES AND COMMIS-
4 SIONS.—In establishing reasonable fees or commissions
5 under this section, the USTR may take into account—

6 (1) the actual costs which will be incurred in
7 providing the items, information, services, or assist-
8 ance concerned;

9 (2) the efficiency of the Government in provid-
10 ing such items, information, services, or assistance;

11 (3) the portion of the cost that will be incurred
12 in providing such items, information, services, or as-
13 sistance which may be attributed to benefits for the
14 general public rather than exclusively for the person
15 to whom the items, information, services, or assist-
16 ance is provided;

17 (4) any public service which occurs through the
18 provision of such items, information, services, or as-
19 sistance; and

20 (5) such other factors as the USTR considers
21 appropriate.

22 (e) REFUNDS OF EXCESS PAYMENTS.—In any case
23 in which the USTR determines that any person has made
24 a payment which is not required under this section or has
25 made a payment which is in excess of the amount required

1 under this section, the USTR, upon application or other-
2 wise, may cause a refund to be made from applicable
3 funds.

4 **SEC. 242. PROFESSIONAL TRADE SERVICE CORPS.**

5 Within 180 days after the effective date of this Act,
6 the USTR shall prepare and transmit to the President and
7 the Congress a report containing recommendations for the
8 establishment of a Professional Trade Service Corps de-
9 signed to attract and retain highly qualified, experienced,
10 and motivated professionals to administer the trade poli-
11 cies and activities of the United States. The proposal for
12 the Corps shall contain provisions for—

13 (1) the advancement and retention of personnel
14 on a competitive basis;

15 (2) the designation of senior positions in the
16 Corps in order that personnel employed in the Corps
17 may advance in careers relating to international
18 trade; and

19 (3) the transfer of personnel between the Corps
20 and the Foreign Service in order that such personnel
21 may be employed in foreign and domestic service.

22 **SEC. 243. SEAL OF DEPARTMENT.**

23 The USTR shall cause a seal of office to be made
24 for the Administration of such design as the USTR shall
25 approve. Judicial notice shall be taken of such seal.

1 **Subtitle E—Related Agencies**

2 **SEC. 251. INTERAGENCY TRADE ORGANIZATION.**

3 Section 242(a)(3) of the Trade Expansion Act of
4 1962 (19 U.S.C. 1872(a)(3)) is amended to read as fol-
5 lows:

6 “(3)(A) The interagency organization estab-
7 lished under subsection (a) shall be composed of—

8 “(i) the United States Trade Representa-
9 tive, who shall be the chairperson,

10 “(ii) the Secretary of Agriculture,

11 “(iii) the Secretary of the Treasury,

12 “(iv) the Secretary of Labor,

13 “(v) the Secretary of State, and

14 “(vi) the representatives of such other de-
15 partments and agencies as the United States
16 Trade Representative shall designate.

17 “(B) The United States Trade Representative
18 may invite representatives from other agencies, as
19 appropriate, to attend particular meetings if subject
20 matters of specific functional interest to such agen-
21 cies are under consideration. It shall meet at such
22 times and with respect to such matters as the Presi-
23 dent or the chairperson shall direct.”.

1 **SEC. 252. NATIONAL SECURITY COUNCIL.**

2 The fourth paragraph of section 101(a) of the Na-
3 tional Security Act of 1947 (50 U.S.C. 402(a)) is amend-
4 ed—

5 (1) by redesignating clauses (5), (6), and (7) as
6 clauses (6), (7), and (8), respectively; and

7 (2) by inserting after clause (4) the following
8 new clause:

9 “(5) the United States Trade Representative;”.

10 **SEC. 253. INTERNATIONAL MONETARY FUND.**

11 Section 3 of the Bretton Woods Agreement Act is
12 amended by adding at the end the following new sub-
13 section:

14 “(e) The United States executive director of the Fund
15 shall consult with the United States Trade Representative
16 with respect to matters under consideration by the Fund
17 which relate to trade.”.

18 **Subtitle G—Conforming**
19 **Amendments**

20 **SEC. 261. AMENDMENTS TO GENERAL PROVISIONS.**

21 (a) **PRESIDENTIAL SUCCESSION.**—Section 19(d)(1)
22 of title 3, United States Code, is amended by inserting
23 “the United States Trade Representative,” after “Sec-
24 retary of Commerce,”.

25 (b) **INSPECTOR GENERAL.**—The Inspector General
26 Act of 1978 is amended—

1 (1) in subsection 9(a)(1) by inserting after sub-
2 paragraph (W) the following:

3 “(X) of the United States Trade Rep-
4 resentative, all functions of the Inspector Gen-
5 eral of the Department of Commerce and the
6 Office of the Inspector General of the Depart-
7 ment of Commerce relating to the functions
8 transferred to the United States Trade Rep-
9 resentative by section 222 of the Trade Reorga-
10 nization Act of 1995.”; and

11 (2) in section 11—

12 (A) in paragraph (1) by inserting “the
13 United States Trade Representative;” after
14 “the Attorney General;”; and

15 (B) in paragraph (2) by inserting “the
16 United States Trade Administration,” after
17 “Treasury;”.

18 (c) AMENDMENT TO THE TRADE ACT OF 1974.—(1)

19 Chapter 4 of title I of the Trade Act of 1974 is amended
20 to read as follows:

1 **“CHAPTER 4—REPRESENTATION IN**
2 **TRADE NEGOTIATIONS**
3 **“SEC. 141. FUNCTIONS OF THE UNITED STATES TRADE REP-**
4 **RESENTATIVE.**

5 “The United States Trade Representative of the
6 United States Trade Administration established under
7 section 201 of the Trade Reorganization Act of 1995
8 shall—

9 “(1) be the chief representative of the United
10 States for each trade negotiation under this title or
11 chapter 1 of title III of this Act, or subtitle A of
12 title I of the Omnibus Trade and Competitiveness
13 Act of 1988, or any other provision of law enacted
14 after the Trade Reorganization Act of 1995;

15 “(2) report directly to the President and the
16 Congress, and be responsible to the President and
17 the Congress for the administration of trade agree-
18 ments programs under this Act, the Omnibus Trade
19 and Competitiveness Act of 1988, the Trade Expan-
20 sion Act of 1962, section 350 of the Tariff Act of
21 1930, and any other provision of law enacted after
22 the Trade Reorganization Act of 1995;

23 “(3) advise the President and the Congress
24 with respect to nontariff barriers to international
25 trade, international commodity agreements, and

1 other matters which are related to the trade agree-
2 ments programs; and

3 “(4) be responsible for making reports to Con-
4 gress with respect to the matters set forth in para-
5 graphs (1) and (2).”.

6 (2) The table of contents in the first section of the
7 Trade Act of 1974 is amended by striking the items relat-
8 ing to chapter 4 and section 141 and inserting the follow-
9 ing:

“CHAPTER 4—REPRESENTATION IN TRADE NEGOTIATIONS

“Sec. 141. Functions of the United States Trade Representative.”.

10 (d) FOREIGN SERVICE PERSONNEL.—The Foreign
11 Service Act of 1980 is amended by striking paragraph (3)
12 of section 202(a) (22 U.S.C. 3922(a)) and inserting the
13 following:

14 “(3) The United States Trade Representative of
15 the United States Trade Administration may utilize
16 the Foreign Service personnel system in accordance
17 with this Act—

18 “(A) with respect to the personnel per-
19 forming functions—

20 “(i) which were transferred to the De-
21 partment of Commerce from the Depart-
22 ment of State by Reorganization Plan No.
23 3 of 1979; and

1 “(ii) which were subsequently trans-
2 ferred to the United States Trade Rep-
3 resentative by section 222 of the Trade
4 Reorganization Act of 1995; and

5 “(B) with respect to other personnel of the
6 United States Trade Administration to the ex-
7 tent the President determines to be necessary in
8 order to enable the United States Trade Ad-
9 ministration to carry out functions which re-
10 quire service abroad.”.

11 (e) CHIEF FINANCIAL OFFICERS.—Section 901(b)(1)
12 of title 31, United States Code, is amended by adding at
13 the end the following:

14 “(Q) The United States Trade Administra-
15 tion.”.

16 **SEC. 262. REPEALS.**

17 Sections 1 and 2 of the Act of June 5, 1939 (15
18 U.S.C. 1502 and 1503; 53 Stat. 808), relating to the
19 Under Secretary of Commerce, are repealed.

20 **SEC. 263. CONFORMING AMENDMENTS RELATING TO EXEC-**
21 **UTIVE SCHEDULE POSITIONS.**

22 (a) POSITIONS AT LEVEL I.—Section 5312 of title
23 5, United States Code, is amended—

24 (1) by adding at the end the following:

1 “The United States Trade Representative of
2 the United States Trade Administration.”.

3 (b) POSITIONS AT LEVEL II.—Section 5313 of title
4 5, United States Code, is amended by adding at the end
5 the following:

6 “Deputy Administrator of the United States
7 Trade Administration.

8 “Deputy United States Trade Representatives,
9 United States Trade Administration (2).”.

10 (c) POSITIONS AT LEVEL III.—Section 5314 of title
11 5, United States Code, is amended—

12 (1) by striking the item relating to the Under
13 Secretary of Commerce, Under Secretary of Com-
14 merce for Economic Affairs, Under Secretary of
15 Commerce for Export Administration, and Under
16 Secretary of Commerce for Travel and Tourism, and
17 inserting “Under Secretary of Commerce for Eco-
18 nomic Affairs and Under Secretary of Commerce for
19 Travel and Tourism”; and

20 (2) by adding at the end the following:

21 “Assistant Administrators, United States Trade
22 Administration (3).

23 “Director General for Export Promotion, Unit-
24 ed States Trade Administration.”.

1 (d) POSITIONS AT LEVEL IV.—Section 5315 of title
2 5, United States Code, is amended—

3 (1) in the item relating to the Assistant Sec-
4 retaries of Commerce, by striking “(11)” and insert-
5 ing “(7)”;

6 (2) by striking the item relating to the Assist-
7 ant Secretary of Commerce and Director General of
8 the United States and Foreign Commercial Service;
9 and

10 (3) by adding at the end the following:

11 “General Counsel, United States Trade Admin-
12 istration.

13 “Inspector General, United States Trade Ad-
14 ministration.

15 “Chief Financial Officer, United States Trade
16 Administration.”.

17 (e) POSITIONS AT LEVEL V.—Section 5316 of title
18 5, United States Code, is amended by striking the item
19 relating to the National Export Expansion Coordinator,
20 Department of Commerce.

1 **TITLE III—TRANSITIONAL, SAV-**
2 **INGS, AND CONFORMING**
3 **PROVISIONS**

4 **SEC. 301. ADDITIONAL TRANSFERS.**

5 Any function of the Secretary of Commerce or the
6 Department of Commerce which—

7 (1) is not transferred by title II of this Act; and

8 (2) is incidental to, necessary for, or primarily
9 related to, the performance of a function transferred
10 by any such title,

11 is transferred to the head of the Federal agency to which
12 the related function is transferred by such title.

13 **SEC. 302. TRANSFER AND ALLOCATIONS OF APPROPRIA-**
14 **TIONS AND PERSONNEL.**

15 Except as otherwise provided in this Act, the person-
16 nel employed in connection with, and the assets, liabilities,
17 contracts, property, records, and unexpended balances of
18 appropriations, authorizations, allocations, and other
19 funds employed, used, held, arising from, available to, or
20 to be made available in connection with the functions and
21 offices transferred by this Act, subject to section 1531 of
22 title 31, United States Code, shall be transferred to the
23 head of the Federal agency to which such functions or of-
24 fices are transferred by this Act. Unexpended funds trans-
25 ferred pursuant to this section shall be used only for the

1 purposes for which the funds were originally authorized
2 and appropriated.

3 **SEC. 303. INCIDENTAL TRANSFERS.**

4 (a) IN GENERAL.—The Director of the Office of
5 Management and Budget, at such time or times as the
6 Director shall provide, is authorized to make such deter-
7 minations as may be necessary with regard to the func-
8 tions and offices transferred by this Act, and to make such
9 additional incidental dispositions of personnel, assets, li-
10 abilities, grants, contracts, property, records, and unex-
11 pended balances of appropriations, authorizations, alloca-
12 tions, and other funds held, used, arising from, available
13 to, or to be made available in connection with such func-
14 tions and offices, as may be necessary to carry out the
15 provisions of this Act. The Director shall provide for the
16 termination of the affairs of all entities terminated by this
17 Act and for such further measures and dispositions as may
18 be necessary to effectuate the purposes of this Act.

19 (b) TRANSFERS RELATING TO SENIOR EXECUTIVE
20 SERVICE.—After consultation with the Director of the Of-
21 fice of Personnel Management, the Director of the Office
22 of Management and Budget is authorized, at such times
23 as the Director of the Office of Management and Budget
24 may provide, to make such determinations as may be nec-
25 essary with regard to the transfer of positions within the

1 Senior Executive Service in connection with the functions
2 and offices transferred by this Act.

3 **SEC. 304. EFFECT ON PERSONNEL.**

4 (a) IN GENERAL.—Except as otherwise provided by
5 this Act, the transfer pursuant to this Act of full-time per-
6 sonnel (except special Government employees) and part-
7 time personnel holding permanent positions shall not
8 cause any such employee to be separated or reduced in
9 grade or compensation for one year after the date of trans-
10 fer of such employee under this Act.

11 (b) EXECUTIVE SCHEDULE POSITIONS.—Except as
12 otherwise provided by this Act, any person who, on the
13 day preceding the effective date of this Act, held a position
14 compensated in accordance with the Executive Schedule
15 prescribed in chapter 53 of title 5, United States Code,
16 and who, without a break in service, is appointed in a Fed-
17 eral agency to which functions are transferred by this Act
18 to a position having duties comparable to the duties per-
19 formed immediately preceding such appointment shall con-
20 tinue to be compensated in such new position at not less
21 than the rate provided for such previous position, for the
22 duration of the service of such person in such new posi-
23 tion.

24 (c) TERMINATION OF CERTAIN POSITIONS.—Except
25 for members of the Foreign Service, positions whose in-

1 cumbents are appointed by the President, by and with the
2 advice and consent of the Senate, the functions of which
3 are transferred by this Act, shall terminate on the effective
4 date of this Act.

5 **SEC. 305. SAVINGS PROVISIONS.**

6 (a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—

7 All orders, determinations, rules, regulations, permits,
8 agreements, grants, contracts, certificates, licenses, reg-
9 istrations, privileges, and other administrative actions—

10 (1) which have been issued, made, granted, or
11 allowed to become effective by the President, any
12 Federal agency or official thereof, or by a court of
13 competent jurisdiction, in the performance of func-
14 tions which are transferred under this Act, and

15 (2) which are in effect at the time this Act
16 takes effect, or were final before the effective date
17 of this Act and are to become effective on or after
18 the effective date of this Act,

19 shall continue in effect according to their terms until
20 modified, terminated, superseded, set aside, or revoked in
21 accordance with law by the President, the head of the Fed-
22 eral agency to which such functions are transferred under
23 this Act or other authorized official, a court of competent
24 jurisdiction, or by operation of law.

1 (b) PROCEEDINGS NOT AFFECTED.—(1) The provi-
2 sions of this Act shall not affect any proceedings, includ-
3 ing notices of proposed rule making, or any application
4 for any license, permit, certificate, or financial assistance
5 pending on the effective date of this Act before the De-
6 partment of Commerce or the Office of the United States
7 Trade Representative, or any office thereof with respect
8 to functions transferred by this Act, but such proceedings
9 or applications, to the extent that they relate to functions
10 transferred, shall be continued. Orders shall be issued in
11 such proceedings, appeals shall be taken therefrom, and
12 payments shall be made under such orders, as if this Act
13 had not been enacted, and orders issued in any such pro-
14 ceedings shall continue in effect until modified, termi-
15 nated, superseded, or revoked by the head of the Federal
16 agency to which such functions are transferred by this
17 Act, by a court of competent jurisdiction, or by operation
18 of law. Nothing in this subsection prohibits the discontinu-
19 ance or modification of any such proceeding under the
20 same terms and conditions and to the same extent that
21 such proceeding could have been discontinued or modified
22 if this Act had not been enacted.

23 (2) The Secretary of Commerce, the United States
24 Trade Representative, and the head of each Federal agen-
25 cy to which functions are transferred by this Act are au-

1 thorized to issue regulations providing for the orderly
2 transfer of proceedings continued under paragraph (1).

3 (c) ADMINISTRATIVE ACTIONS RELATING TO PRO-
4 MULGATION OF RULES.—Any administrative action relat-
5 ing to the preparation or promulgation of a regulation by
6 a Federal agency relating to a function transferred under
7 this Act may be continued by the Federal agency to which
8 such function is transferred with the same effect as if this
9 Act had not been enacted.

10 (d) SUITS NOT AFFECTED.—Except as provided in
11 subsection (e)—

12 (1) the provisions of this Act do not affect ac-
13 tions commenced prior to the effective date of this
14 Act, and

15 (2) in all such actions, proceedings shall be had,
16 appeals taken, and judgments rendered in the same
17 manner and effect as if this Act had not been en-
18 acted.

19 (e) NONABATEMENT OF ACTIONS.—No action or
20 other proceeding commenced by or against any officer in
21 his official capacity as an officer of the Department of
22 Commerce or the Office of United States Trade Rep-
23 resentative with respect to functions transferred by this
24 Act shall abate by reason of the enactment of this Act.
25 No cause of action by or against the Department of Com-

1 merce or the Office of United States Trade Representative
2 with respect to functions transferred by this Act, or by
3 or against any officer thereof in his official capacity, shall
4 abate by reason of the enactment of this Act. Causes of
5 action and actions with respect to a function or office
6 transferred by this Act, or other proceedings may be as-
7 serted by or against the United States or an official of
8 the Federal agency to which such function or office is
9 transferred by this Act, as may be appropriate, and, in
10 an action pending when this Act takes effect, the court
11 may at any time, on its own motion or that of any party,
12 enter an order which will give effect to the provisions of
13 this subsection.

14 (f) FEDERAL OFFICIAL AS PARTY IN ACTION.—If,
15 before the date on which this Act takes effect, the Depart-
16 ment of Commerce or the Office of the United States
17 Trade Representative, or any officer thereof in his official
18 capacity, is a party to an action, and under this Act any
19 function of such Department, Office, or officer is trans-
20 ferred to a Federal agency, then such action shall be con-
21 tinued with the head of such agency substituted or added
22 as a party.

23 (g) JUDICIAL REVIEW.—Orders and actions of the
24 head of a Federal agency in the exercise of functions
25 transferred to the head of such agency by this Act shall

1 be subject to judicial review to the same extent and in
2 the same manner as if such orders and actions had been
3 by the Department of Commerce or the Office of the Unit-
4 ed States Trade Representative, or any office or officer
5 thereof, in the exercise of such functions immediately pre-
6 ceding their transfer. Any statutory requirements relating
7 to notice, hearings, action upon the record, or administra-
8 tive review that apply to any function transferred by this
9 Act shall apply to the exercise of such function by the head
10 of the Federal agency to which such function is trans-
11 ferred by this Act.

12 **SEC. 306. REFERENCE.**

13 With respect to any functions transferred by this Act
14 and exercised after the effective date of this Act, reference
15 in any other Federal law to—

16 (1) the Secretary of Commerce or the United
17 States Trade Representative; or

18 (2) the Department of Commerce or the Office
19 of the United States Trade Representative or any of-
20 ficer or office thereof,

21 shall be considered to refer to the head of the Federal
22 agency to whom such functions were transferred by this
23 Act.

1 **SEC. 307. TRANSITION.**

2 With the consent of the Secretary of Commerce or
3 the United States Trade Representative, as the case may
4 be, the head of each Federal agency to which functions
5 or offices are transferred by this Act is authorized to uti-
6 lize—

7 (1) the services of such officers, employees, and
8 other personnel of the Department of Commerce or
9 the Office of the United States Trade Representa-
10 tive, as the case may be, with respect to functions
11 or offices transferred to that agency by this Act; and

12 (2) funds appropriated to such functions or of-
13 fices for such period of time as may reasonably be
14 needed to facilitate the orderly implementation of
15 this Act.

16 **SEC. 308. ADDITIONAL CONFORMING AMENDMENTS.**

17 (a) IN GENERAL.—After consultation with the appro-
18 priate committees of the Congress and the Director of the
19 Office of Management and Budget, the head of each agen-
20 cy to which functions are transferred under this Act shall
21 prepare and submit to the Congress recommended legisla-
22 tion containing technical and conforming amendments to
23 reflect the changes made by this Act.

24 (b) SUBMISSION.—No later than 6 months after the
25 effective date of this Act, each such agency head shall sub-

1 mit the recommended legislation referred to under sub-
2 section (a).

3 **TITLE IV—MISCELLANEOUS**

4 **SEC. 401. EFFECTIVE DATE.**

5 (a) IN GENERAL.—This Act shall take effect 120
6 days after the date of the enactment of this Act, except
7 that—

8 (1) section 307 shall take effect on such date
9 of enactment; and

10 (2) at any time after the date of the enactment
11 of this Act—

12 (A) the officers provided for in title II of
13 this Act may be nominated and appointed, as
14 provided in such titles; and

15 (B) the Secretary of Commerce, the United
16 States Trade Representative, and the head of
17 each Federal agency to which functions are
18 transferred by this Act may promulgate regula-
19 tions under section 305(b)(2).

20 (b) INTERIM COMPENSATION AND EXPENSES.—
21 Funds available to the Department of Commerce or the
22 Office of the United States Trade Representative (or any
23 official or component thereof), with respect to the func-
24 tions transferred by this Act, may be used, with approval
25 of the Director of the Office of Management and Budget,

1 to pay the compensation and expenses of an officer ap-
2 pointed under subsection (a)(2)(A) who will carry out such
3 functions until funds for that purpose are otherwise avail-
4 able.

5 **SEC. 402. INTERIM APPOINTMENTS.**

6 (a) IN GENERAL.—If one or more officers required
7 by this Act to be appointed by and with the advice and
8 consent of the Senate have not entered upon office on the
9 effective date of this Act and notwithstanding any other
10 provision of law, the President may designate any officer
11 who was appointed by and with the advice and consent
12 of the Senate, and who was such an officer on the day
13 before the effective date of this Act, to act in the office
14 until it is filled as provided by this Act.

15 (b) COMPENSATION.—Any officer acting in an office
16 pursuant to subsection (a) shall receive compensation at
17 the rate prescribed by this Act for such office.

18 **SEC. 403. FUNDING REDUCTIONS RESULTING FROM REOR-**
19 **GANIZATION.**

20 (a) FUNDING REDUCTIONS.—Beginning in the first
21 fiscal year that begins on or after the effective date of
22 this Act, the amount expended by the United States in
23 performing all functions which, immediately before the ef-
24 fective date of this Act, were performed by the Depart-
25 ment of Commerce or any agency, officer, or employee

1 thereof may not exceed 75 percent of the total amount
2 expended by the United States in performing all such
3 functions during fiscal year 1995.

4 (b) IMPLEMENTATION PLAN.—(1) Not later than 90
5 days after the date of the enactment of this Act, the Direc-
6 tor of the Office of Management and Budget shall submit
7 a report to the Congress on a plan that—

8 (A) provides for the implementation of the
9 funding reductions required under subsection (a);
10 and

11 (B) makes legislative recommendations for ad-
12 ditional authority necessary or useful in implement-
13 ing such funding reductions.

14 (2) In preparing the report, the Office of Manage-
15 ment and Budget shall consult with the USTR.

16 **SEC. 404. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such sums
18 as may be necessary to carry out the provisions of this
19 Act. Amounts appropriated under this section shall be
20 available until expended.

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